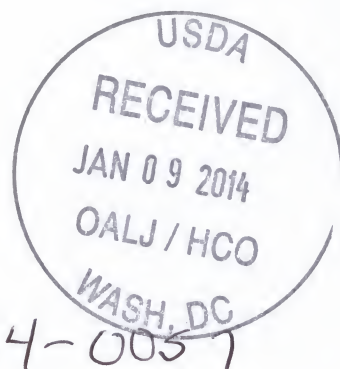


UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE



In re:

Timothy Lee Smith,
Mark West, and
Evergreen Horse Farm, Inc.

Respondents

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HPA Docket No.

Complaint

There is reason to believe that the respondents named herein have violated the Horse Protection Act, as amended (15 U.S.C. §§ 1821-1831), herein referred to as the Act. Therefore, the Administrator of the Animal and Plant Health Inspection Service ("APHIS") issues this complaint alleging the following:

I

1. Respondent Timothy Lee Smith is an individual whose mailing address is 1508 Highway 64 West, Shelbyville, TN 37160.

2. Respondent Evergreen Horse Farm, Inc., is an active corporation in the State of Tennessee whose mailing address is 3306 Highway 231 North, Shelbyville, TN 37160. Virginia L. Stewart is the registered agent of Evergreen Horse Farm, Inc. At all times mentioned herein said respondent was the owner of the horses known as "The Golden Sovereign" and "Brother Sovereign."

3. Respondent Mark West is an individual whose mailing address is 165 Duncan Road, Manchester, TN 37355.

4. On or about May 22, 2009, respondent Timothy Lee Smith transported for the purpose of showing or exhibiting the horse known as "Out on Bond," entry no. 159, class no. 29, to the 39th Annual Spring Fun Show in Shelbyville, TN.

5. On or about May 22, 2009, respondent Timothy Lee Smith entered for the purpose of showing or exhibiting the horse known as "Out on Bond," entry no. 159, class no. 29, in the 39th Annual Spring Fun Show in Shelbyville, TN.

6. On or about June 6, 2009, respondent Timothy Lee Smith transported for the purpose of showing or exhibiting the horse known as "FDR," entry no. 232, class no. 68, to the 41st Annual Walking Horse Trainer's Show in Shelbyville, TN.

7. On or about June 6, 2009, respondents Timothy Lee Smith and Mark West entered for the purpose of showing or exhibiting the horse known as "FDR," entry no. 232, class no. 68, in the 41st Annual Walking Horse Trainer's Show in Shelbyville, TN.

8. On August 27, 2011, respondents Timothy Lee Smith and Evergreen Horse Farm, Inc., entered for the purpose of showing or exhibiting the horse known as "The Golden Sovereign," entry no. 1848, class no. 80B, in the 73rd Annual Tennessee Walking Horse Celebration in Shelbyville, TN.

9. On August 27, 2011, respondent Timothy Lee Smith showed or exhibited the horse known as "The Golden Sovereign," entry no. 1848, class no. 80B, at the 73rd Annual Tennessee Walking Horse Celebration in Shelbyville, TN.

10. On August 27, 2011, respondent Evergreen Horse Farm, Inc., allowed the entry of and the showing or exhibiting of the horse known as "The Golden Sovereign," entry no. 1848, class no. 80B, at the 73rd Annual Tennessee Walking Horse Celebration in Shelbyville, TN.

11. On August 4, 2012, respondent Timothy Lee Smith and Evergreen Horse Farm, Inc., entered for the purpose of showing or exhibiting the horse known as "The Golden Sovereign," entry no. 288, class no. 27, in the 106th Anniversary Wartrace Horse Show in Wartrace, TN.

12. On August 4, 2012, respondent Timothy Lee Smith showed or exhibited the horse known as "The Golden Sovereign," entry no. 288, class no. 27, at the 106th Anniversary Wartrace Horse Show in Wartrace, TN.

13. On August 4, 2012, respondent Evergreen Horse Farm, Inc., allowed the entry of, and the showing or exhibiting of, the horse known as "The Golden Sovereign," entry no. 288, class no. 27, at the 106th Anniversary Wartrace Horse Show in Wartrace, TN.

14. On March 29, 2012, respondents Timothy Lee Smith and Evergreen Horse Farm, Inc., entered for the purpose of showing or exhibiting the horse known as "Brother Sovereign," entry no. 28, class no. 14, at the Mississippi Charity Horse Show in Jackson, MS.

15. On March 29, 2012, respondent Timothy Lee Smith showed or exhibited the horse known as "Brother Sovereign," entry number 28, class number 14, in the Mississippi Charity Horse Show in Jackson, MS.

16. On March 29, 2012, respondent Evergreen Horse Farm, Inc., allowed the entry of, and the showing or exhibiting of, the horse known as "Brother Sovereign," entry no. 28, class no. 14, in the Mississippi Charity Horse Show in Jackson, MS.

II

1. On or about May 22, 2009, respondent Timothy Lee Smith, in violation of section 5(1) of the Act (15 U.S.C. § 1824(1)), transported for the purpose of showing or exhibiting, the horse known as "Out on Bond," entry no. 159, class no. 29, to the 39th Annual Spring Fun Show in Shelbyville, TN, while the horse was sore (9 C.F.R. § 11.3(b)).

2. On or about May 22, 2009, respondent Timothy Lee Smith, in violation of section 5(2)(B) of the Act (15 U.S.C. § 1824(2)(B)), entered for the purpose of showing or exhibiting the

horse known as “Out on Bond,” entry no. 159, class no. 29, in the 39th Annual Spring Fun Show in Shelbyville, TN, while the horse was sore (9 C.F.R. § 11.3(b)).

III

1. On or about June 6, 2009, respondent Timothy Lee Smith, in violation of section 5(1) of the Act (15 U.S.C. § 1824(1)), transported for the purpose of showing or exhibiting the horse known as “FDR,” entry no. 232, class no. 68, to the 41st Annual Walking Horse Trainer’s Show in Shelbyville, TN, while the horse was sore (9 C.F.R. § 11.3(b)).

2. On or about June 6, 2009, respondents Timothy Lee Smith and Mark West, in violation of section 5(2)(B) of the Act (15 U.S.C. § 1824(2)(B)), entered for the purpose of showing or exhibiting the horse known as “FDR,” entry no. 232, class no. 68, in the 41st Annual Walking Horse Trainer’s Show in Shelbyville, TN, while the horse was sore (9 C.F.R. § 11.3(b)).

IV

1. On August 27, 2011, respondents Timothy Lee Smith and Evergreen Horse Farm, Inc., in violation of section 5(2)(B) of the Act (15 U.S.C. § 1824(2)(B)), entered for the purpose of showing or exhibiting the horse known as “The Golden Sovereign,” entry no. 1848, class no. 80B, in the 73rd Annual Tennessee Walking Horse Celebration in Shelbyville, TN, while the horse was sore (9 C.F.R. § 11.3(b)).

2. On August 27, 2011, respondent Timothy Lee Smith, in violation of section 5(2)(A) of the Act (15 U.S.C. § 1824(2)(A)), showed or exhibited the horse known as “The Golden Sovereign,” entry no. 1848, class no. 80B, at the 73rd Annual Tennessee Walking Horse Celebration in Shelbyville, TN, while the horse was sore (9 C.F.R. § 11.3(b)).

3. On August 27, 2011, respondent Evergreen Horse Farm, Inc., in violation of section 5(2)(D) of the Act (15 U.S.C. § 1824(2)(D)), allowed the entry of, and the showing or

exhibiting of, the horse known as "The Golden Sovereign," entry no. 1848, class no. 80B, in the 73rd Annual Tennessee Walking Horse Celebration in Shelbyville, TN, while the horse was sore (9 C.F.R. § 11.3(b)).

4. On August 4, 2012, respondent Timothy Lee Smith and Evergreen Horse Farm, Inc., in violation of section 5(2)(B) of the Act (15 U.S.C. § 1824(2)(B)), entered for the purpose of showing or exhibiting the horse known as "The Golden Sovereign," entry no. 288, class no. 27, in the 106th Anniversary Wartrace Horse Show in Wartrace, TN, while the horse was sore (9 C.F.R. § 11.3(b)).

5. On August 4, 2012, respondent Timothy Lee Smith, in violation of section 5(2)(A) of the Act (15 U.S.C. § 1824(2)(A)), showed or exhibited the horse known as "The Golden Sovereign," entry no. 288, class no. 27, in the 106th Anniversary Wartrace Horse Show in Wartrace, TN, while the horse was sore (9 C.F.R. § 11.3(b)).

6. On August 4, 2012, respondent Evergreen Horse Farm, Inc., in violation of section 5(2)(D) of the Act (15 U.S.C. § 1824(2)(D)), allowed the entry of, and the showing or exhibiting of, the horse known as "The Golden Sovereign," entry no. 288, class no. 27, in the 106th Anniversary Wartrace Horse Show in Wartrace, TN, while the horse was sore (9 C.F.R. § 11.3(b)).

V

1. On March 29, 2012, respondents Timothy Lee Smith and Evergreen Horse Farm, Inc., in violation of section 5(2)(B) of the Act (15 U.S.C. § 1824(2)(B)), entered for the purpose of showing or exhibiting the horse known as "Brother Sovereign," entry no. 28, class no. 14, in the Mississippi Charity Horse Show in Jackson, MS, while the horse was sore.

2. On March 29, 2012 respondent Timothy Lee Smith, in violation of section 5(2)(A) of the Act (15 U.S.C. § 1824(2)(A)), showed or exhibited the horse known as "Brother Sovereign," entry no. 28, class no. 14, at the Mississippi Charity Horse Show in Jackson, MS, while the horse was sore.

3. On March 29, 2012 respondent Evergreen Horse Farm, Inc., in violation of section 5(2)(D) of the Act (15 U.S.C. § 1824(2)(D)), allowed the entry of, and the showing or exhibiting of, the horse known as "Brother Sovereign," entry no. 28, class no. 14, at the Mississippi Charity Horse Show in Jackson, MS, while the horse was sore.

WHEREFORE, it is hereby ordered that for the purpose of determining whether the respondents have in fact violated the Act, this complaint shall be served upon the respondents. The respondents shall file an answer with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250-9200, in accordance with the Rules of Practice governing proceedings under the Act (7 C.F.R. §§ 1.130-162.13). Failure to file an answer shall constitute an admission of all the material allegations of this complaint.

The Animal and Plant Health Inspection Service requests:

1. That unless the respondents fail to file an answer within the time allowed therefor, or file an answer admitting all the material allegations of this complaint, this proceeding be set for oral hearing in conformity with the Rules of Practice governing proceedings under the Act; and

2. That such order or orders be issued as are authorized by the Act and warranted under the circumstances including an order:

(a) Assessing civil penalties against the respondents in accordance with section 6(b) of the Act (15 U.S.C. § 1825(b)); and

(b) Disqualifying the respondents for a specified period as provided in section 6(c) of the Act (15 U.S.C. § 1825(c)) from (1) showing, exhibiting or entering any horse, or otherwise participating in any horse show or exhibition, and (2) judging or managing any horse show, horse exhibition, horse sale or auction. "Participating" means engaging in any activity beyond that of a spectator, and includes, without limitation, transporting or arranging for the transportation of horses to or from equine events, personally giving instructions to exhibitors, being present in the warm-up or inspection areas, or in any area where spectators are not allowed, and financing the participation of others in equine events.

Done at Washington, D.C.
this 6th day of Jan., 2014



Administrator
Animal and Plant Health
Inspection Service

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